

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

WILLIAM BRAGG,

Petitioner,

v.

**Civil Action No. 2:06CV125
(Judge Maxwell)**

UNITED STATES OF AMERICA,

Respondent.

ORDER

It will be recalled that on May 8, 2007, Magistrate Judge Seibert filed his Report and Recommendation That Case Be Dismissed Without Prejudice, wherein the Petitioner was directed to file with the Clerk of Court any written objections within ten (10) days after being served with a copy of the Report and Recommendation. No objections or other response from the Petitioner has been received.

Upon examination of the report from the Magistrate Judge, which recommends that this matter be dismissed without prejudice for failure to prosecute as Petitioner has failed to pay the filing fee or file the required forms to proceed without prepayment of fee, the Court finds that it accurately reflects the law applicable to the facts and circumstances before the Court in this action. As more fully set forth in the Report and Recommendation, the Clerk sent Petitioner a Notice of Deficient Pleading on January 3, 2007 warning that his failure to pay the filing fee or submit the required forms within 30 days could result in dismissal of his case. To date, neither the filing fee nor the required forms have been received. Therefore, it is

ORDERED that Magistrate Judge Seibert's Report and Recommendation be, and the same hereby is, accepted in whole and that this action be disposed of in accordance with the recommendation of the Magistrate Judge. Accordingly, it is

ORDERED that the above-styled civil action be, and the same hereby is, **DISMISSED** without prejudice for failure to prosecute, and **STRICKEN** from the docket of this Court. It is further

ORDERED that, if Petitioner should desire to appeal the decision of this Court, written notice of appeal must be received by the Clerk of this Court within thirty (30) days from the date of the entry of this Order, pursuant to Rule 4 of the Federal Rules of Appellate Procedure. The \$5.00 filing fee for the notice of appeal and the \$450.00 docketing fee should also be submitted with the notice of appeal. In the alternative, at the time the notice of appeal is submitted, Petitioner may, in accordance with the provisions of Rule 24(a) of the Federal Rules of Appellate Procedure, seek leave to proceed in forma pauperis from the United States Court of Appeals for the Fourth Circuit.

ENTER: October 4th, 2007


United States District Judge